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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,773	03/12/2001	Judah Z. Weinberger	56330-A/JPW/PJP	8786

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New York, NY 10036

EXAMINER

MARMOR II, CHARLES ALAN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 05/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/803,773

Applicant(s)

WEINBERGER, JUDAH Z.

Examiner

Charles A. Marmor, II

Art Unit

3736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4,6-13 and 22-30.

Claim(s) withdrawn from consideration: _____.

8. ☒ The proposed drawing correction filed on 14 April 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Charles A. Marmor, II
Primary Examiner
Art Unit: 3736

Continuation of 2. NOTE: The proposed amendments to claims 1, 8 and 22 add limitations to the tube segment. Particularly, the tube segment covers the balloon substantially entirely during inflation and has an outer surface that is exposed to come into direct contact with the luminal structure. The proposed amendments to claims 25 and 28 also add limitations to the tube segment. Particularly, the tube segment has substantially equal wall thickness along its longitudinal length. The foregoing proposed amendments would require further search and consideration of the claims. .

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejections of claims 1-4, 6-13 and 22-30 under the judicially created doctrine of obvious-type double patenting citing U.S. Patent No. 6,200,256 B1. The rejections of claims 1-4,6-13,22-24,29 and 30 under 35 U.S.C. 112, second paragraph would have been overcome by Applicant's reply; however, said rejections have not been withdrawn because the proposed amendment will not be entered.

Continuation of 7. Claims 1-4,6-13,22-24,29 and 30 remain rejected under 35 USC 112, second paragraph, as being indefinite. Claims 1,3,7,8,10 and 22 remain rejected under 35 USC 102(e) as being anticipated by Klein ('284). Claims 25-27 remain rejected under 35 USC 102(e) as being anticipated by Delfino et al. ('658). Claims 2 and 9 remain rejected under 35 USC 103(a) as being unpatentable over Klein in view of Hess ('168). Claims 4 and 11 remain rejected under 35 USC 103(a) as being unpatentable over Klein in view of Lewis et al. ('552). Claims 6, 12,13,23 and 24 remain rejected under 35 USC 103(a) as being unpatentable over Klein in view of Fischell et al. ('282). Claims 28-30 remain rejected under 35 USC 103(a) as being unpatentable over Delfino et al. in view of Hess ('466).